IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 12803 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE H.K.RATHOD

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

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GUJARAT STATE ROAD TRANSPORT CORPORATION

Versus

MANVARKHAN H PATHAN

Appearance:

1. Special Civil Application No. 12803 of 2000

MR HS MUNSHAW for Petitioner No. 1

NOTICE SERVED BY DS for Respondent No. 1

DS AFF.NOT FILED (R) for Respondent No. 1

CORAM : MR.JUSTICE H.K.RATHOD

Date of decision: 19/03/2002

ORAL JUDGEMENT

Heard learned advocate Mr. Munshaw for the petitioner. Notice of rule issued by this court has been served upon the respondent. However, the respondent has

not appeared before this Court either in person or through any advocate. Therefore, this petition has been taken up for hearing in absence of the respondent. This petition was admitted by this Court by issuing rule thereon by order dated 18.12.2000 and in the mean time, impugned order of the labour court has been stayed.

By way of this petition, the petitioner is challenging the award made by the labour court, Nadiad in Reference No. 123 of 1995 dated 16th June, 2000 wherein the labour court has granted 50 per cent of the wages from the date of filing of the statement of claim till the retirement of the respondent workman on 28th October, 1997 and the termination order has been considered to be simpliciter and on that basis, it has been held that he is entitled for the consequential benefits and it has been ordered that if the award in question is not implemented within thirty days from the date of publication, then, the petitioner will have to pay interest at the rate of 18 per cent per annum to the workman.

Learned advocate Mr. Munshaw appearing for the petitioner has submitted that the respondent was working as a driver and was dismissed on 25th June, 1984 and, thereafter, he raised industrial dispute which was subsequently referred to the labour court. According to him, the industrial dispute was raised after the period of about ten years and, therefore, the labour court ought not to have entertained the reference on the ground of delay. He has submitted that the labour court has committed gross error in granting 50 per cent of the back wages which has resulted into financial burden upon the petitioner corporation which is a public body. According to him, in view of the delay in raising dispute and also in view of the facts of the case, the labour court ought to have rejected the reference. According to his submission, the labour court has erred in exercising the discretion in favour of the workman under section 11-A of the Industrial Disputes Act, 1947.

I have considered the submissions made by Mr. Munshaw for the petitioner. In respect of the first contention raised by Mr. Munshaw for the petitioner that the reference ought to have been rejected by the labour court in view of delay in raising an industrial dispute, the view taken by the apex court in case of ..... versus UP State Electricity Board reported in 1999-II CLR page 7. The apex court has considered delay in raising dispute and has held that the delay of nine years in raising an industrial dispute does not cease the dispute

but the delay is having effect on the relief and some care has to be taken by the labour court while granting relief in favour of the workman concerned. Therefore, in view of the decision of the apex court reported in 1999-II CLR page 7, merely on the ground of delay in raising dispute, reference cannot be rejected and, thus, labour court was justified in adjudicating the reference on merits and the labour court has taken sufficient care of this aspect while granting relief in favour of the respondent workman and has not granted relief from the date of termination or dismissal but the relief has been granted from the date of filing of the statement of claim before the labour court and, therefore, in view of such care taken by the labour court and also in view of the principles laid down by the apex court in the aforesaid decision, such contention raised by Mr. Munshaw cannot be entertained and the same is, therefore, rejected. As regards the second contention raised by Mr. Munshaw that the corporation has suffered loss to the extent of Rs.30,000/- in view of the accident wherein the respondent was convicted by two courts and ultimately the conviction recorded by the courts below was set aside by the high court and, therefore, considering these aspects of the matter, the labour court has rightly appreciated the facts of the matter and has rightly granted relief in favour of the respondent. The labour court has exercised the powers under section 11-A of the Industrial Disputes Act, 1947 and considering the delay, the labour court has passed the award to the effect that the order of dismissal shall stand converted into an order of termination simpliciter from the date of filing of the statement of claim till the date of retirement and 50 per cent of the back wages has been granted. Therefore, considering these facts of the case, according to my opinion, no error has been committed by the labour court in passing such an award. Mr. Munshaw has not been able to point out any jurisdictional error and/or procedural irregularity committed by the labour court. Therefore, there is no substance in this petition and the same is required to be rejected.

In view of the above reasons, this petition is rejected. Interim relief granted earlier shall stand vacated. There shall be no order as to costs.

19.3.2002. (H.K. Rathod,J.)
Vyas